

FIFRA Section 7(c) Enforcement Response Policy  
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MEMORANDUM

SUBJECT: FIFRA Section 7(c) Enforcement Response Policy

FROM: A.E. Conroy II, Director  
Office of Compliance Monitoring

TO: Addressees

Attached is the Enforcement Response Policy for the Federal Insecticide, Fungicide and Rodenticide Act ( FIFRA ) Section 7(c) Pesticide Producing Establishment Reporting Requirement. This policy is immediately effective and supersedes the May 24, 1985 Interim Enforcement Response Policy for the FIFRA Section 7(c) Pesticide Producing Establishment Reporting Requirement. This policy sets forth the appropriate enforcement action to initiate for FIFRA Section 7(c) violations. Please refer to Appendix C of the Enforcement Response Policy ( the last 2 pages of the document ) for a summary chart of the enforcement response policy.

The following changes were made to the final policy in response to comments regarding the April 26, 1985 draft policy.

- o Page 2, Persons Not Required to Report Production. The following sentence was incorporated: "Also, any person who is a producer solely because he produces a custom blended pesticide is not required to report if he meets the requirements set forth in the FIFRA Compliance Program Policy No. 3.4 entitled "Custom Blenders."
- o Page 5, Incomplete Reporting - Reporting in a Manner Inconsistent

with the Regulations.

- The timeframe for submitting missing information was changed from 5 days to 10 days.

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- The following sentence was incorporated to further explain what is meant by a minor omission of information: "Minor omissions of information are clerical errors and/or the omission of minor amounts of information as to reflect an oversight."
- o Page 5, False Reporting / Major Omissions of Information - Reporting in a Manner Inconsistent with the Regulations. The following example concerning a major omission was incorporated: "An example of a major omission of information would be demonstrated by an establishment that does not report a pesticide which was produced in the preceding year. For instance, an establishment which produced 5 different pesticides, but reported production of only 4 pesticides."
- o Page 6, Administrative Civil Penalty FIFRA Section 14(a)(1). The timeframe for which civil complaints should be issued was changed from 2 months to 75 days (2.5 months).
- o Page 11, Violations, (3) Nonreporting Violation or Notably Late Reporting - Annual. The following paragraph was incorporated: "Producers of pesticides in bulk form shall be assessed a penalty in accordance with GBP Matrix A for the first nonreporting violation. Subsequent nonreporting violations warrant a penalty assessment from GBP Matrix C."
- o Appendix A, Page A-5. A Model Notice of Termination of Establishment Registration was added.
- o Appendix C. An Appendix C was added to the attached policy. This appendix includes the Enforcement Response Chart and the Civil Penalty Matrix.

Also attached, for your information, is the Office of Compliance Monitoring's response to comments concerning the draft policy.

If you have any questions concerning this enforcement response policy, please contact Claudia Goforth of my staff at FTS 475-6723.

## Attachments

### COMMENTS REGARDING THE FIFRA SECTION 7 ENFORCEMENT RESPONSE POLICY AND OCM'S RESPONSE

- o One commenter mentioned that the name "bulk producer" should be changed to producers of pesticide in bulk form.

OCM changed the name of bulk producer to "producers of pesticide in bulk form".

- o Many Regions questioned the practicality of issuing civil complaints for violations within 60 days from the due date of the report.

The policy has been changed whereby civil complaints are to be issued within 75 days from the due date of the report.

- o Several Regions stated that the good faith adjustment factor constituted a 40% reduction of penalty, not 20% as stated in the policy.

According to 39 FR 27711, 7/31/74, good faith permits a total reduction of 20%.

- o One Region said "The matrix, we firmly believe, should be revised to include lower penalties."

OCM disagrees. The information required under FIFRA Section 7(c) is used for regulatory purposes of risk assessment as well as for inspection and targeting purposes. OCM considers Section 7(c) violations to be serious. This is due to the potential impact on the Agency's ability to conduct accurate risk assessments and compliance inspections. Therefore, the penalty matrix has not been changed.

- o One commenter stated that it is unrealistic to expect either a State or Federal inspector to respond by inspecting a terminated pesticide producing establishment.

The timeframe for inspection of a pesticide producing establishment which has had its registration terminated was increased from one month to two months. However, OCM does not believe that the number of establishments which have their

registration terminated will increase.

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- o One Region stated that the chart on page 10 of the draft policy is unnecessary and cumbersome.

The chart, which is now located in appendix C, is designed for easy access by Regional personnel in determining the enforcement response for a specific violation. The chart will remain in the policy since the majority of Regions agreed that the chart is an effective tool for determining an enforcement response.

- o One Region requested that producers of pesticides in bulk form should receive a lower penalty for a first time non-reporting violation.

OCM agreed and changed the policy to include a lower penalty assessment for the first time nonreporting violation of producers of pesticides in bulk form. This change was incorporated due to the unique factors which are associated with producers of pesticides in bulk form.

- o One Region requested that an example regarding major and minor omissions of information be included.

OCM incorporated examples of major and minor omissions of information.

- o One Region stated that the time period for which a report should be considered late is ten days.

The majority of Regional comment agreed with the timeframe provided in the policy. Therefore, to maintain national consistency, the timeframe for issuing civil enforcement actions for late reporting shall remain as 30 days from the February 1 due date.

- o Some commenters stated that the firm should be granted 10 days instead of 5 to submit the information which was omitted from report.

The timeframe for submitting information was increased to 10 days.

- o One commenter stated that the notably late violation category should be deleted.

OCM disagrees. If a report is received after the civil complaint has been prepared ( not issued ) for a nonreporting violation, the establishment can no longer be considered nonreporting since the Region now has the report in its possession. Therefore, a notably late reporting category

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was incorporated to cover instances such as this. It is important to note that the establishment is subject to the same civil penalty assessment as an establishment which does not report. OCM believes that a cutoff date by which all violators are subject to a penalty irrespective of when a Region issues its complaints is necessary. Otherwise the treatment of a notably late reporter will vary depending on the region in which the establishment is located. For example, if a report is 65 days late and the Region issues its complaint by day 60 and another Region issues its complaints by day 75, the enforcement response will be different for notably late reporting versus nonreporting, although the report is submitted on day 65. In fact, there could be a difference in the enforcement response within the same Region depending on the date an establishment's complaint is sent.

- o One commenter felt a statement was needed which explained that the postmark date of mailed reports will be considered as the submission date.

A statement such as this was included in the draft policy and shall remain in the final policy.

#### ENFORCEMENT RESPONSE POLICY FOR FIFRA SECTION 7(c) PESTICIDE PRODUCING ESTABLISHMENT REPORTING REQUIREMENT

Environmental Protection Agency  
Office of Pesticides and Toxic Substances  
Office of Compliance Monitoring  
Washington, D.C. 20460

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## I: INTRODUCTION

### Policy Summary

This policy sets forth the procedures which the Environmental Protection Agency will follow in determining what level of action to bring against establishments that violate section 7(c) of the Federal

Insecticide, Fungicide and Rodenticide Act, as amended ( hereafter FIFRA or the Act ).

## Background

Section 7(c) of FIFRA permits the Administrator to require any producer operating an establishment registered under section 7 to submit a production report within 30 days after notification of registration of his establishment and thereafter on an annual basis. The due date for the annual report is stated in 40 CFR Section 167.5 as February 1 of every year. Failure to submit a production report is a violation of the requirements set forth in FIFRA Section 7(c) and violates section 12(a)(2)(L) of the Act.

EPA considers failure to comply with this reporting requirement a serious violation. Violations of the section 7 reporting requirement impacts the Agency's risk assessment capability as well as its ability to effectively target inspections. It is also important to note that this is the major mechanism by which EPA can determine what pesticides an establishment is producing.

## Persons Regulated

Any person producing a pesticide or device is subject to section 7 and required to register his establishment with EPA. In addition, section 7(c) requires all registered establishments to submit an annual production report to the Agency. The regulations at 40 CFR Section 167.2(a) define which producing establishments must report.

Those producers who must comply with the reporting provision of FIFRA Section 7 include but are not limited to:

- o Producers of registered pesticides;
- o Producers of technical material;
- o Producers of devices;

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- o Producers of pesticide products for export;
- o Reformulators;
- o Repackagers ( includes relabelers );

- o Producers of pesticides in bulk form;
- o Foreign producers who export to the United States;
- o Producers of pesticides under an Experimental Use Permit;
- o Establishments which produce pesticides / devices under contract;
- o Producers of active ingredients ( will be addressed in future FIFRA Section 7 regulations ); and
- o Custom blenders ( see section "Persons Not Required to Report." )

Establishments which did not produce over the past year or years and are still registered with EPA as a producing establishment are subject to this reporting requirement and must file a report stating "zero production". Therefore, any producer operating an establishment registered under FIFRA Section 7 must file an annual report, even if the registered establishment is not currently producing. Nonproducing registered establishments are also subject to the same remedies as a registered establishment that is actively producing.

#### Persons Not Required to Report Production

Any person who is a producer solely because he produces a custom blended pesticide is not required to report if he meets the requirements set forth in the FIFRA Compliance Program Policy No. 3.4 entitled "Custom Blenders".

#### Requirements of FIFRA Section 7(c)

##### Initial Report

When a producing establishment is registered, EPA provides the pesticide establishment report form ( EPA Form 3540-16 ) to the producer along with the assigned establishment number. The completed form is to be submitted to EPA within 30 days after the receipt of the written notification of establishment registration. This pesticide establishment report is considered as the initial pesticide establishment report and is to be submitted by the establishment to the appropriate Regional Office.



In the case of foreign producers, their reports must be submitted to the Office of Compliance Monitoring ( OCM ).

### Annual Report

After submitting the initial report, producers are required to submit production reports on an annual basis. The due date, as set forth in 40 CFR Section 167.5(c), is on or before February 1.

The postmark date on the report shall be considered as the date of submission for reports mailed to the Regional Office.

### Request for an Extension

An establishment may request an extension from EPA concerning the due date for the annual production report. EPA may grant an extension if the request is made prior to the expiration of the due date and the producer can present just cause regarding the need for an extension. Granting of the extension will be at the discretion of the Regional Office, or OCM for foreign producers.

### Information Required

Only those products produced and/or distributed by the reporting establishment should be included in the report. Information on products sold or distributed by, but not produced at, the reporting establishment are not to be included in the production report. However, if a registered establishment did not produce or distribute any products, an annual report indicating zero production must be submitted.

The pesticide establishment report shall include: the types of pesticides produced; the past year's amount of production and sales and distribution of each product; the amount of current production of each product; and the amount of product which has been sold or distributed in the past calendar year.

Additional information required in the report concerns manufacturing use products, end-use products, repackaged products, exports and imports, section 5 Experimental Use Permits, section 24(c) registrations and section 18 exemptions.

It is important to note that each establishment must have its own report and may not combine a report with any other establishment even if a company has several establishments. However, the company headquarters may complete the report forms for each of its producing

establishments.

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## Violations

There are five types of reporting violations:

- o Late Reporting;
- o Notably Late Reporting;
- o Nonreporting;
- o Incomplete Reporting; and
- o Falsification of Information in the Report.

If a producer fails to submit a complete report by the required due date or falsifies information in the report, he may be charged with a violation under section 12(a)(2)(L), 7 USC Section 136j(a)(2)(L), and shall be subject to the remedies set forth in this enforcement response policy.

### Late Reporting

For the purpose of this enforcement response policy, enforcement action will be initiated if the required production report is not submitted on or before the established due date. A production report submitted within 1 to 30 days after the due date shall be considered as a late report. It is important to note that reports submitted even one day after the due date will be considered as a late report.

### Notably Late Reporting and Nonreporting

If a producing establishment does not submit the annual pesticide report within 30 days after the February 1 due date, the establishment will be considered as nonreporting and assessed the appropriate civil penalty.

If a report is submitted after the 30th day past the due date, but prior to the issuance of the civil complaint for nonreporting, the establishment will be considered as filing a notably late report and will be assessed the same civil penalty as a nonreporting violation. ( Since the report had been submitted, the violation would no longer be

nonreporting. )

#### Incomplete Reporting - Reporting in a Manner Inconsistent with the Regulations

A report may be technically incomplete. This violation occurs when the producer has failed to submit all required information. The Agency recognizes that not all such omissions are deliberate and its initial response to minor omissions in a report will be to telephone or write the submitter and attempt to obtain the missing information.

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EPA considers minor omissions of information to be clerical errors and/or the omission of minor amounts of information as to reflect an oversight. If the submitter fails to provide EPA with the required information within 10 days from the date of the initial request, via letter, the report may then be considered incomplete. Consequently, the Agency shall issue a FIFRA Section 9(c)(3) notice of warning.

The notice of warning will provide the establishment with 20 calendar days to submit the necessary information. If a producer operating an establishment commits a second or subsequent ( within a 3 year timeframe ) incomplete reporting violation, he will be subject to a civil penalty.

#### False Reporting / Major Omissions of Information - Reporting in a Manner Inconsistent with the Regulations

The submitter who was negligent about consulting records or performing calculations cannot claim to have reported all reasonably ascertainable information. Such negligence may be treated as falsification since the ultimate result of failure to meet the standard was the submission of false information. Furthermore, to knowingly falsify any information contained in the report is an unlawful act under FIFRA Section 12(a)(2)(M). Knowing or unknowing, major omissions are a violation of FIFRA Section 12(a)(2)(L).

An example of a major omission of information would be demonstrated by an establishment that does not report a pesticide which was produced in the preceding year, i.e., an establishment which produced 5 different pesticides, but reported production of only 4 pesticides.

## II: LEVEL OF ACTION

The available levels of action for violations of the section 7 reporting rule include notices of warning, administrative civil penalties, termination of establishment registrations, and criminal sanctions.

#### Notice of Warning Under FIFRA Section 9(c)(3)

The notice of warning is the appropriate enforcement action for the following violations:

- o Nonreporting - Initial Report.

Failing to submit the initial production report within 30 days after notification of the establishment registration. ( Failure to report after the receipt of a FIFRA Section 9(c)(3) warning will result in termination of the establishment's registration. )

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- o Late Reporting - Annual Report.

First offense in filing a late report. ( Please note that this refers only to those situations in which the Region has received the report within 30 days after the due date. )

- o Incomplete Reporting - Minor Omissions of Information.

The registrant will be given 20 calendar days to submit the report, or the missing information, after the receipt of a notice of warning. If the Agency does not receive the report within the given timeframe, proceedings to terminate the establishment registration will commence ( refer to section entitled Termination of Establishment Registration for further explanation and guidance ).

The FIFRA Section 9(c)(3) notice of warning should be sent via certified mail with return receipt requested. A sample notice of warning for each applicable offense is located in Appendix A.

#### Administrative Civil Penalty FIFRA Section 14(a)(1)

Issuance of a civil complaint proposing a penalty is the appropriate enforcement response for the following violations:

- o Late Reporting - Second or Subsequent Violation Within a Three Year Timeframe From the First Violation;

- o Notably Late Reporting;

- o Nonreporting;
- o Incomplete Reporting - Second or Subsequent Violation ( within a three year timeframe ); and
- o Falsification of Information Contained in the Pesticide Report, or Major Omissions of Information.

The civil complaint should be issued within 75 days (2.5 months) after the February 1 report due date. Civil penalties should be assessed in accordance with the guidelines and procedures established in Part III of this policy. For additional guidance in assessing a civil penalty see the "General FIFRA Compliance / Enforcement Guidance Manual", 1983, Chapter 7, entitled "Administrative Actions: Civil".

#### Termination of Establishment Registration

##### Termination For Cause

The regulations relating to the registration of a pesticide producing establishment ( 40 CFR Section 167.3 and 7 USC Section 136e ) state

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that an establishment's registration will remain in effect so long as the establishment submits the required production report. If the producing establishment fails to submit a production report within 20 calendar days after the date of receipt of the notice of warning or civil penalty, EPA will initiate procedures to terminate the establishment's registration. This action will be independent of any other enforcement action.

To terminate an establishment's registration, a Notice of Intent to Terminate must first be issued to the producing establishment. This notice will identify the violation and warn the producer that the registration for his establishment will be terminated if the report in question is not received within the next 20 calendar days. The Notice of Intent to Terminate Registration should be sent with the initial enforcement action or, at the latest, by May 1, or 20 days before the designated deadline of termination. ( A sample Notice of Intent to Terminate Registration is located in Appendix A, page A-4 ).

Regions should assure that the establishment's registration is terminated on or before June 1 if the producer has not submitted his

annual report within the timeframe set forth by the initial enforcement action ( i.e., notice of warning or civil penalty ).

#### Foreign Producers

The Office of Compliance Monitoring will issue a Notice of Intent to Terminate to any foreign producer who fails to submit a report within 30 days from the due date. If the report in question is not received within 30 calendar days from receipt of the Notice of Intent to Terminate, the establishment's registration will be terminated. Regions shall be informed of the termination of foreign establishment's registration ( along with the Department of Treasury - U.S. Customs Service ). This is to prevent entry of a pesticide product from a foreign establishment which has had its establishment registration terminated.

#### Inspections

Inspection of the producing establishment, for which registration has been terminated, should be conducted within 2 months following termination of the establishment's registration. This is to ensure adherence to the provisions of FIFRA Section 7.

#### Public Notification of Establishments Which Cannot Be Located

By July 1 of each year, all Regional Offices shall submit a listing to the Compliance Division of OCM, which identifies those establishments for which registrations are to be terminated, but have not been notified because the Regions have been unable to locate the establishment.

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OCM will subsequently compile a listing of all those establishments which cannot be located and publish the establishment's name and number in the Federal Register for official public notification of the termination of the establishment's registration.

#### Reregistration After Termination

Producers desiring reregistration of their establishment must apply for establishment registration pursuant to the requirements of 40 CFR Section 167.2.

#### Requested Termination

Termination of an establishment registration may also occur upon the request of the establishment or parent company. This typically happens as a result of the establishment: 1) going out of business; 2) no longer producing pesticides or; 3) no longer falling under the purview of FIFRA Section 7. Termination of an establishment registration in such situations should not be confused with termination for cause.

#### Criminal Sanctions FIFRA Section 14(b)(1)

Criminal sanctions pursuant to Section 14(b)(1) of the Act will be sought in situations that when measured by the nature of the conduct and the compliance history of the subject, reflect the most serious cases of misconduct.

For FIFRA Section 7, the Agency may consider criminal action for knowing and willful falsification of the information provided to the Agency. Since the Agency may terminate the registration of producers who fail to report, EPA will generally not consider criminal action for nonreporting violations.

### PART III: ASSESSING AN ADMINISTRATIVE CIVIL PENALTY

#### Summary of the Penalty Policy

All civil administrative penalties should be calculated by selecting the appropriate gravity based penalty ( GBP ) and making appropriate modifications based on application of the adjustment factors in the general FIFRA Civil Penalty System.

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#### CIVIL PENALTY MATRIX

	I	II	III	IV	V	
A. Late Reporting Violation						
-- Subsequent Violation		200	400	600	800	1000
Section 12(a)(2)(L)						
B. Incomplete Reporting						
-- Producer Does Not Respond to		320	800	1760	2720	3200

Notice of Warning.  
Also Those Producers  
Who Commit a Subsequent  
Violation Section  
12(a)(2)(L)

C. Notably Late  
Reporting or  
Nonreporting  
Violation            320      800      1760      2720      3200  
-- Annual Report  
Section 12(a)(2)(L)

D. Submission of  
False Section 7            500      1250      2750      4250      5000  
Report Data  
Sections 12(a)(2)(M)  
and 12(a)(2)(N)

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## Explanation of Penalty Policy

### Calculation of the Gravity Based Penalty

The Gravity Based Penalty ( GBP ), for each type of violation,  
is to be selected from the matrix provided on page 9 of this document.

### Violations

#### 1) Subsequent Late Reporting.

This violation concerns the producing establishment which has  
received a previous FIFRA Section 9(c)(3) notice of warning for  
submitting a late report within 3 years from the present reporting  
year.

Since the actual report is in the possession of the Agency, a  
lesser penalty is appropriate. Penalties shall be assessed  
according to Penalty Matrix A.

#### 2) Incomplete Reporting - Second or Subsequent Violation.

When information is omitted from the pesticide report, the  
Agency will contact the producing establishment and request the



information. If the information is not immediately accessible, the producing establishment may then be granted 10 days to submit the necessary information, via letter to the proper EPA Region, ( or Headquarters in the case of foreign establishments ). If the registrant does not respond by submitting the requested information within 10 days, they will be considered as filing an incomplete report and subject to a civil penalty. In such cases the Region is to assess a penalty in accordance with GBP Matrix B.

### 3) Notably Late Reporting or Nonreporting Violation - Annual Report.

A production report is considered notably late if the report is submitted to the Agency more than 30 days after the due date, but prior to the issuance of the civil complaint for nonreporting.

Nonreporting results when a producer operating an establishment does not submit a report to the Agency.

Notably late reporting and nonreporting violations receive the same penalty assessment. Penalties shall be assessed in accordance with GBP Matrix C, unless the establishment falls into one of the following categories.

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#### A. Nonreporting by Producers of Pesticides in Bulk Form -

Producers of pesticide in bulk form shall be assessed a penalty in accordance with GBP Matrix A for a first time nonreporting violation. Subsequent nonreporting violations warrant a penalty assessment from GBP Matrix C.

#### B. Nonreporting by Establishments with Zero Production -

When a nonproducing establishment fails to report, EPA will issue a civil complaint in accordance with GBP Matrix C. If the producer requests termination of his establishment registration within 20 calendar days after the civil complaint has been issued, the civil penalty may be reduced to zero. Please note that reduction of a penalty is at the discretion of EPA.

In the event the producer reregisters his establishment, and commits another nonreporting violation, he will be subject to a civil penalty, without the option of the penalty being reduced

to zero.

#### 4) Falsification of Report Data.

When a producer knowingly falsifies any information submitted to EPA pursuant to section 7, the proposed penalty shall be selected from GBP Matrix D. Reporting false information is a serious violation, one which warrants an increased penalty and may subject the producer to criminal proceedings. Please note that submission of a report with major omissions of information which are not "knowingly" omitted is a violation of FIFRA Section 12(a)(2)(L).

An example of false reporting is an establishment which produces 5 pesticides yet only reports production of 4 pesticides. If the Agency discovers that an establishment actually produced 5 pesticides in the past year, and not 4 as reported, the establishment would be cited for falsification of information.

#### Adjustment Factors

The FIFRA Civil Penalty Policy specifies that the penalty is to be adjusted by applying appropriate adjustment factors. Several adjustment factors are particularly relevant to violations of this reporting requirement. Adjustment factors are outlined in the General FIFRA Civil Penalty Policy; however the following factors are especially applicable to violations of this reporting requirement:

- o History of prior such violation;
- o Effect on person's ability to continue in business; or
- o Good faith attitude ( up to 20% reduction ).

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#### Penalty Assessment When Business Size is Unknown

When no information concerning a producing establishment's size of business can be found, the Agency will propose the penalty at the GBP Category V Size of Business Level. The Category V amount shall be the penalty proposed unless the establishment can verify to EPA, at the expense of the establishment, its size of business. The proposed penalty will subsequently be adjusted to reflect the documented information demonstrating the establishment's size of business. ( A sample size of business letter which may be used in the aforementioned

instance can be found in Appendix B. )

## APPENDIX A

### Model Notice of Warning

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

EPA Est. 000-00

Establishment's Address

Gentlemen:

### NOTICE OF WARNING

#### FOR FAILING TO FILE INITIAL PESTICIDE ESTABLISHMENT REPORT

This letter constitutes a warning pursuant to section 9(c)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, ( hereafter FIFRA ), 7 USC section 136g(c)(3). The Environmental Protection Agency is hereby advising you that you are in violation of section 12(a)(2)(L) of FIFRA, 7 USC Section 136j(a)(2)(L), by failing to file the initial pesticide production report within thirty (30) calendar days after the receipt of notification of registration for your establishment which included the EPA Production Report Form. The aforementioned information was sent via certified mail to ( ESTABLISHMENT'S NAME, ADDRESS ) and was received on ( DATE OF RETURN RECEIPT ).

You are hereby advised to file the initial report with this Regional Office, within twenty (20) calendar days. If you have not filed the initial pesticide production report within the twenty (20) calendar days, you shall be subject to the remedy set forth in Part 40 Code of Federal Regulations Section 167.5, whereby the registration of this producing establishment shall be terminated.

All necessary measures are taken by the Agency to preclude the issuance of a notice of termination of registration. However, if the report is not received within the given timeframe of this notice, proceedings to terminate your establishment's registration will be pursued.

Please note that according to FIFRA, no person shall produce any

pesticide subject to FIFRA in any State unless the establishment in which it is produced is registered with the Administrator.

If you have any questions concerning this matter, please contact ( NAME AND PHONE NUMBER ).

Sincerely yours,

Signature  
( Name and Title )

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#### Model Notice of Warning

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

EPA EST. 000-00

Establishment's Address

Gentlemen:

#### NOTICE OF WARNING

#### FOR FILING A LATE ANNUAL PESTICIDE ESTABLISHMENT REPORT

This letter constitutes a warning pursuant to section 9(c)(3) of the Federal Insecticide Fungicide and Rodenticide Act, as amended ( FIFRA ), 7 USC section 136j(c)(3). The Environmental Protection Agency is hereby advising you that you are in violation of section 12(a)(2)(L) of FIFRA, 7 USC Section 136j(a)(2)(L), by not filing the annual pesticide report required by FIFRA Section 7(c), on or before the February 1 due date. The report filed by your producing establishment located at ( address ) was received by this Office on ( DATE ).

You are hereby advised to comply with the regulations promulgated at 40 CFR Section 167.5(c) which states the due date for annual reports as being February 1 of each year. Noncompliance with this reporting requirement in the future may subject your producing establishment to an administrative civil penalty.

If you have any questions concerning this notice of warning, please

contact ( NAME ) at ( PHONE NUMBER ).

Sincerely yours,

( Signature  
Name and Title )

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Model Notice of Warning for Failing to File a  
Complete Pesticide Report

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

EPA EST. 000-00

Establishment's Address

Gentlemen:

NOTICE OF WARNING

FOR FAILING TO SUBMIT A COMPLETE PESTICIDE REPORT

This letter constitutes a warning pursuant to section 9(c)(3), 7 USC section 136j(c)(3) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, ( FIFRA ). The Environmental Protection Agency is hereby advising you that you are in violation of section 12(a)(2)(L) of FIFRA, 7 USC section 136(a)(2)(L), by failing to submit the information which was missing from the annual pesticide report received on ( DATE ). This Office contacted you on ( DATE ) via ( letter or telephone ) to request the missing information whereby your establishment was allocated ten (10) days to submit the information to this Office. The information required in the pesticide report may be found at 40 CFR 167.5(a).

You are hereby advised to submit the information requested within twenty (20) calendar days from the receipt of this Notice of Warning. Failure to do so may subject your producing establishment to an administrative civil penalty.

If you have any questions concerning this matter, please contact ( NAME ) at ( PHONE # ).

Sincerely yours,

Signature  
( Name and Title )

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Model Notice of Intent to Terminate Establishment Registration

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

EPA Est. 000-00

Establishment's Address

Gentlemen:

NOTICE OF INTENT TO TERMINATE ESTABLISHMENT REGISTRATION

You are hereby advised of the Environmental Protection Agency intention to terminate the registration of your pesticide producing establishment located in ( city and state ) pursuant to 40 CFR Section 167.3 and section 7 of the Federal Insecticide, Fungicide and Rodenticide Act, ( FIFRA ), as amended, 7 USC Section 6136, in response to your failure to submit the production report required by section 7(c) of FIFRA and 40 CFR Section 167.3.

Your failure to file the required report by February 1, 19 \_\_ has already subjected you to the ( NOTICE OF WARNING, CIVIL OR CRIMINAL PENALTY ) provision of the Act. Failure to submit the required reports within twenty (20) calendar days from the date of this notice will result in the termination of your establishment registration, which shall be effective upon the issuance of a Notice of Termination of Establishment Registration. Submission of the required report within the twenty (20) day time period shall not affect your liability under the provisions of FIFRA, whereby the enforcement action which had previously been initiated against your establishment is still in effect. However, termination of your establishment registration is an enforcement action, independent of any other.

In the event you do not respond to this notice, you should assure yourself that all necessary measures will be taken to preclude any production not in compliance with FIFRA or the regulations.

Sincerely yours,

Signature  
( Name and Title )

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Model Notice of Termination of  
Establishment Registration

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

EPA Est. 000-00

( Company name )  
( Address )

Subject: ( Establishment registration number )

NOTICE OF TERMINATION OF ESTABLISHMENT REGISTRATION

Gentlemen:

The Environmental Protection Agency hereby informs you that the Agency has terminated the registration of your establishment, located in ( city and state ), pursuant to Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act, ( FIFRA ) as amended, 7 USC Section 136 and 40 CFR Section 167.3. The Agency has taken this action based on your failure to submit reports required by Section 7(c) of the Act and by 40 CFR Section 167.5.

You may apply for reinstatement of your establishment registration at any time subsequent to the termination of your establishment registration. However, the reinstatement of your establishment registration will be expressly conditional upon the Agency's receipt of your delinquent pesticide establishment report(s) together with an application for establishment registration ( EPA Form 3540-16 ).

Please be assured that all necessary measures shall be taken to preclude any action at your establishment which is not in compliance with the Act. Production of pesticides, active ingredients, or devices in an unregistered establishment or in an establishment whose registration has been terminated is an unlawful action subject to the civil and criminal penalty provisions of the Act.

Sincerely yours,

Signature  
( Name, and Title )

## APPENDIX B

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

( Est. name and address )

Dear (        ):

Enclosed is an administrative Civil Complaint alleging violations documented under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ( FIFRA ).

In determining the amount of the penalty, the Agency is required to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violations. The Guidelines for the Assessment of Civil Penalties ( 39 FR 27712 ) set forth the following size-of-business gradations, based on gross annual sales:

Category I	Less than \$100,000
Category II	\$100,000 - \$400,000
Category III	\$400,000 - \$700,000
Category IV	\$700,000 - \$1,000,000
Category V	In excess of \$1,000,000

In the absence of specific information on your firm's size of business, as determined by gross annual sales, it has been assumed for purposes of this Complaint that your firm is a Category V size of business.

Please be assured that if your firm has been placed in Category V incorrectly, the proposed penalty will be adjusted upon submittal of reliable financial information indicating another category is appropriate. If you have any questions concerning this matter, please contact ( name ) at ( phone # ).

Sincerely yours,

Signature



( Name and Title )

Enclosure

Appendix C: Section 7(c) Enforcement Response Chart  
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